

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

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NEXTEL COMMUNICATIONS OF THE MID- :  
ATLANTIC, INC. d/b/a NEXTEL :  
COMMUNICATIONS :  
  
Plaintiff, :  
  
vs. : Civil Action No. 05-cv-11637-JLT  
  
THE CITY OF LAWRENCE MASSACHUSETTS, :  
THE ZONING BOARD OF APPEALS OF THE :  
CITY OF LAWRENCE, MASSACHUSETTS, and, :  
FRANCIS A. AUDEY, RICHARD P. CONSOLI, :  
GAYLE WILLIAMS, JOSEPH F. SIROIS, APRIL :  
LYSKOWSKY, DAN CLARK, and KEMAL :  
BOZKURT in their capacities as Members of the :  
City of Lawrence Zoning Board of Appeals :  
  
Defendants. :

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**ASSENTED TO MOTION TO STAY PENDING IMPLEMENTATION OF  
SETTLEMENT**

Plaintiff Nextel Communications of the Mid-Atlantic Inc., d/b/a Nextel Communications (“Nextel”), by its counsel Devine Millimet & Branch PA, moves to stay this matter pending implementation of a settlement reached between the parties on November 17, 2005. In support of its Motion, Nextel states as follows:

1. Nextel commenced this action under the Telecommunications Act of 1996, challenging a decision by defendants which denied Nextel permission to construct certain personal wireless services antenna facilities in the City of Lawrence.
2. Nextel subsequently located another site which it concluded could be an acceptable alternative upon which to construct the facilities in question, and applied to defendants for permission to construct the same. On November 17, 2005, the defendant Zoning

Board granted Nextel permission to construct the antenna facilities upon the alternative site. Once fully permitted, the alternative site will obviate the need for the site which is the subject of this lawsuit and Nextel has agreed to dismiss this lawsuit once the alternative is fully permitted.

3. There are still some steps that need to be taken, however, including the issuance and filing of a written decision approving the alternative site and the absence of any timely appeal or other legal challenge to the alternative. Nextel anticipates that the alternative will become fully permitted, within the meaning of the parties' agreement, within ninety (90) days.

4. Accordingly, Nextel respectfully requests that this action be stayed for ninety (90) days to permit the settlement to be implemented as described above.

5. The only pending matters in the case are the Scheduling Conference, presently set for December 6, 2005 at 12:00 p.m., and the related Discovery Order issued by the Court on October 26, 2005. In light of the pending settlement, Nextel respectfully requests that the discovery contemplated in the Discovery Order and the Scheduling Conference both be continued, without date.

6. Nextel's counsel has conferred with counsel for defendants, and defendants assent to the relief sought.

WHEREFORE, Nextel respectfully requests that the Court stay this action for ninety (90) days pending implementation of the settlement hereof; that the Scheduling Conference scheduled to be held on December 6, 2005 be continued without date; and, that the Court grant such other relief as it deems just and equitable.

Respectfully submitted,

**NEXTEL COMMUNICATIONS OF THE MID-ATLANTIC, INC.**

By its attorneys,

**DEVINE, MILLIMET & BRANCH,  
PROFESSIONAL ASSOCIATION**

Dated: November 18, 2005

By: /s/Steven E. Grill  
Steven E. Grill, Esquire (admitted *pro hac vice*)  
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**CERTIFICATE OF SERVICE**

On November 18, 2005, I served the foregoing Assented to Motion to Stay upon Richard J. D'Agostino, Esquire, Counsel for the Defendants, by facsimile and regular mail addressed to him at 200 Common Street, Lawrence, Massachusetts 01840.

Dated: November 18, 2005

/s/Steven E. Grill

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